



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(126)

CR-6937-2025 (O&M)
Date of Decision:-**29.09.2025**

PAVINDER NANDA

... Petitioner

Versus

SURESH KUMAR

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Namit Gautam, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

The petitioner has filed the present petition challenging the order dated 11.09.2025 (Annexure P-12) passed by the learned Civil Judge, Ludhiana, whereby his application seeking permission to file a supplementary affidavit as examination-in-chief, in addition to the affidavit already on record, was declined. The petitioner contends that the impugned order is liable to be set aside and seeks appropriate relief in exercise of the supervisory jurisdiction of this Court.

2. The petitioner has instituted the present suit seeking a declaration that the agreement to sell dated 25.05.2007 stands lawfully cancelled and that the earnest money paid by the defendant-respondent be forfeited in favour of the petitioner. In addition, the petitioner seeks a permanent injunction restraining the defendant, his agents, representatives, or any person claiming through him, from interfering with the petitioner's



possession or in any manner attempting to dispossess the petitioner from the suit property, thereby safeguarding the petitioner's rights and interests in the property.

3. The defendant contested the suit by filing a written statement and also preferred a counter-claim seeking possession of the suit property by way of specific performance of the agreement to sell dated 25.05.2007.

3.1. After the completion of pleadings, the learned Court framed issues and the parties commenced leading evidence. During the proceedings, when the petitioner filed an affidavit by way of examination-in-chief in rebuttal evidence, the defendant objected on the ground that certain portions of the affidavit went beyond the pleadings. By order dated 23.05.2017, the Court directed that the admissibility of the said portions would be considered at the time of final arguments, and the defendant was at liberty to ignore those portions during cross-examination without any fear of adverse inference being drawn against him.

3.2. Subsequently, the petitioner filed an application seeking amendment of the written statement to the counter-claim, which was allowed vide order dated 05.12.2017. That order was assailed by the defendant in a civil revision petition before this Court, which was disposed of, granting the defendant a single opportunity to cross-examine the petitioner/plaintiff only in respect of the portions pertaining to hardship as stated in the affidavit, clarifying that the cross-examination would be strictly limited to the portion he was previously permitted to ignore.

3.3. Thereafter, the petitioner filed a further application seeking permission to file a supplementary affidavit by way of examination-in-chief, in order to incorporate additional facts regarding hardship which could not



be included earlier, particularly relating to the petitioner having purchased and sold certain flats vide sale deeds dated 07.02.2014, 06.04.2015, and 28.11.2016. The said application was declined vide the impugned order, against which the present revision petition has been filed.

4. The application has been declined primarily on the ground that this Court, in the earlier revision petition, had not granted the petitioner any opportunity to file a fresh affidavit, and therefore no ground was made out to allow the petitioner to submit additional evidence. Secondly, certain facts which the petitioner now seeks to depose pertain to the year 2016, well prior to his earlier affidavit, and no explanation has been furnished as to why such facts were not included previously. This unexplained omission indicates negligence and appears to be an afterthought.

4.1. However, considering that the petitioner is yet to be cross-examined by the respondent-defendant, and that his examination-in-chief by way of affidavit is already on record, his right to depose additional facts cannot be curtailed merely on the ground that this Court in the earlier revision petition did not grant permission to file a supplementary affidavit, as that issue was not under consideration in that petition. With respect to facts predating the earlier affidavit, although the petitioner has been negligent in not disclosing them previously, he cannot be barred from bringing such facts on record concerning the sale and purchase of certain properties, which are relevant to his defence of hardship in the specific performance of the agreement to sell. His negligence, however, warrants the imposition of costs.



4.2. Accordingly, in view of the above considerations, the impugned order is unsustainable and is hereby set aside. The petitioner is permitted to place the supplementary affidavit on record, subject to payment of costs of ₹25,000/- to the respondent-defendant. The petitioner shall be allowed only a single opportunity to file the supplementary affidavit and shall be available for cross-examination either on that date or on the date fixed by the Court.

5. In view of the foregoing discussion and for the reasons stated above, the present petition is allowed.

6. It is, however, clarified that the observations made here-in-above are not intended to, and shall not be construed as, an expression of opinion on the merits of the main case. These observations are strictly confined to the limited controversy raised in the present petition and pertain solely to the issues deliberated upon for the purpose of adjudicating the instant matter.

7. In consequence of the disposal of the petition, and since the main case has already been adjudicated, all pending miscellaneous applications, if any, shall also stand disposed of, as no further purpose would be served in keeping the same pending.

29.09.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No